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March 21, 2011

Hon. Stanley R. Chesler
United States District Court
Martin Luther King, Jr. Federal Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: White v. Smiths Group, plc, et al.
Docket No. 2:10-cv-04078-SRC-MAS
Motion to Dismiss, argued 3/21/2011

Dear Judge Chesler:


Thank you for accepting this letter discussing the limited issue, "If one is governed by an employment contract that permits the employer to terminate with a specific paid notice period, and the employer breaches, is the employer liable for any other damages than pay in lieu of notice?"

Compensatory damages for breach of contract put a party in as good a position as if performance had been rendered as promised. Totaro, Duffy, Cannova & Co., L.L.C. v. Lane, Middleton & Co., L.L.C., 191 N.J. 1, 12-13 (2007). When the wrongful discharge of an employee occurs, the measure of damages is the employee's compensation for the remainder of the employment period, Goodman V. London Metals Exch., Inc. 86 N.J. 19, 34 (1981), Obendorfer v. Gitano Group, Inc., 838 F. Supp. 950, 953 (D.C.N.J. 1993) and "for all of the natural and probable consequences of the breach of that contract," Pickett v. Lloyd's, 131 N.J. 457, 474 (1993).

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Here, the employer paid six months of pay and benefits in lieu of notice. However, it has not satisfied its obligations. Under this Agreement, the Plaintiff consented to move from England to the U.S and apply to be an alien with permanent resident status. (i.e., get a Green Card). Under ¶17, if the company terminated the Plaintiff, upon her request it was obligated under the Agreement to pay her travel and household transport costs to move back to the U.K. The company has not acknowledged that obligation. In addition, the costs associated with the Plaintiff's job search are probable consequences of the breach. See, e.g., Potter v. Village Bank, 225 N.J. Super. 547 (App. Div. 1988) (job search cost are compensatory damage for retaliatory discharge).

Respectfully submitted,
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By: 
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cc: Sarah Bouchard, Esq.
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